

Michael W. Bennett
Director -
Federal Regulatory

SBC Communications Inc.
1401 I Street, N.W.
Suite 1100
Washington, D.C. 20005
Phone 202 326-8890

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June 21, 1995

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Re: WT Docket No. 94-148, RM 8643

Dear Mr. Caton:

In accordance with Commission rules, please be advised that today Wayne Watts, Kellye Abernathy, Keith Rainer and the undersigned met with Roz Allen, David Furth and Ed Jacobs of the Commercial Wireless Division of the Wireless Telecommunications Bureau to discuss the above subject. Attached is a handout provided in the meeting.

If you have any questions, please let me know.

Sincerely,

Michael W. Bennett

Attachments

cc: Ms. Roz Allen
Mr. David Furth
Mr. Ed Jacobs

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JUN 21 1995

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EX PARTE PRESENTATION OF
SOUTHWESTERN BELL MOBILE SYSTEMS, INC.

DOCKET 94-148

and

RM 8643

June 21, 1995

What is the definition of "Comparable" Facilities?

- "Comparable" is used in the following circumstances:
 - PCS Operator has an obligation to replace existing microwave facilities with a system that is comparable to the existing 2 GHz systems (see proposed rule 47CFR 101.69)
 - The incumbent licensee has one year from acceptance of the "comparable" facilities to demonstrate that the new facilities are not comparable to the former facilities
- The Commission must establish a baseline for determining comparability
 - This definition of "comparability" will be particularly important when the PCS provider and incumbent licensee are considering alternative media as contemplated by 47 CFR Section 101.69 (c) (2). (See Attachment A)
- To meet the comparability standard, the new microwave facility must have
 - the existing channel capacity of the relocated path
 - reliability
 - a new frequency that has growth potential (ie: 6 GHz, 11 GHz etc.)
 - availability (back up, "hot standby") IF the existing facility already provides redundancy

- To meet the comparability standard, the alternative media (fiber, etc.) facility must have:
 - the existing channel capacity of the relocated path
 - the same path reliability
 - the same growth potential
 - diversity or alternative routing

Primary Status vs. Secondary Status?

- The term "secondary" is a term of art in the industry
 - If causing interference to primary licensee in the band must immediately:
 - modify the system to eliminate interference
 - turn off the interfering path
- Only primary path entitled to relocation benefits?
 - Section 101.69 (See Attachment A)
 - Microwave licenses issued to SBMS includes "Secondary" language (See Attachment B)
- What is the status of all paths after three years?
 - voluntary negotiations period plus one year mandatory negotiation period
- Status of SBMS microwave paths
 - Pursuant to the NPRM for ET 92-9, the microwave division issued a spectrum policy which restated that new paths licensed after 1-16-92 would be granted secondary status (see Attachment C)
 - 1992 and 1993 Licenses were not issued due to processing delays
 - How will incumbent licensee prove their primary status?

- The Commission continues to issue 2 GHz paths which appear to have primary status (see Attachment D)
- However some amended licenses are being issued as secondary even though the modifications which lead to the amended license should have entitled the licensee to maintain its primary status

Commission should establish a mechanism for designating primary or secondary status on all new and modified microwave paths. '1

Commission should address dispute resolution

- Rule Section 101.69 requires the PCS provider to pay "all relocation cost" not just "reasonable relocation cost"
 - The reasonable cost test is used for "additional costs that the relocated fixed microwave licensee might incur as a result of operation in another fixed microwave band or migration to another medium" (see proposed rule 101.69 (c) (2))
- The Commission should establish specific rules for dispute resolution including mandatory use of alternative dispute resolution
- Section 101.69(c) (2) should be modified to require PCS provider to pay "reasonable" relocation costs
- If the parties cannot agree on what the "reasonable" relocation costs might be the Commission should require binding arbitration
 - Utilize the major league baseball model of requiring the arbitrator to choose between the parties proposals

(e) Licenses for Local Television Transmission Service stations that are assigned frequencies allocated to the broadcast services shall terminate simultaneously with the expiration of the authorization for the broadcast station to which such service is rendered.

§ 101.69 Transition of the 2.11-2.13, and 2.16-2.18 GHz bands from Common Carrier Fixed Microwave Services and the 1.85-1.99, 2.13-2.15, and 2.18-2.20 GHz bands from Private Operational Fixed Microwave Service to emerging technologies.

(a) Licensees proposing to implement services using emerging technologies (ET Licensees) may negotiate with Common Carrier and Private Operational Fixed Microwave Service licensees (Existing Licensees) in these bands for the purpose of agreeing to terms under which the Existing Licensees would relocate their operations to other fixed microwave bands or to other media, or alternatively, would accept a sharing arrangement with the ET Licensee that may result in an otherwise impermissible level of interference to the existing licensee's operations. ET Licensees may also negotiate agreements for relocation of the Existing Licensees' facilities within the 2 GHz band in which all interested parties agree to the relocation of the Existing Licensee's facilities elsewhere within these bands. "All interested parties" includes the incumbent licensee, the emerging technology provider or representative requesting and paying for the relocation, and any emerging technology licensee of the spectrum to which the incumbent's facilities are to be relocated.

(b) Common Carrier and Private Operational Fixed Microwave licensees, with the exception of public safety facilities defined in paragraph (f) of this section, in bands allocated for licensed emerging technology services will maintain primary status in these bands until two years after the Commission commences acceptance of applications for an emerging technology service (two-year voluntary negotiation period), and until one year after an emerging technology service licensee initiates negotiations for relocation of the fixed microwave licensee's operations (one-year mandatory negotiation period) or, in bands allocated for unlicensed emerging technology services, until one year after an emerging technology unlicensed equipment supplier or representative initiates negotiations for relocation of the fixed microwave licensee's operations (one-year mandatory negotiation period). When it is necessary for an emerging technology provider or representative of unlicensed device manufacturers to negotiate with a fixed microwave licensee with operations in spectrum adjacent to that of the emerging technology provider, the transition schedule of the entity requesting the move will apply. Public safety facilities defined in paragraph (f) of this section will maintain primary status in these bands until four years after the Commission commences acceptance of applications for an emerging technology service (four-year voluntary negotiation period), and until one year after an emerging technology service licensee or an emerging technology unlicensed equipment supplier or representative initiates negotiations for relocation of the fixed microwave licensee's operations (one-year mandatory negotiation period).

(c) The Commission will amend the operation license of the fixed microwave operator to secondary status only if the following requirements are met:

(1) The service applicant, provider, licensee, or representative using an emerging technology guarantees payment of all relocation costs, including all engineering, equipment, site and FCC fees, as well as any reasonable, additional costs that the relocated fixed microwave licensee might incur as a result of operation in another fixed microwave band or migration to another medium;

(2) The emerging technology service entity completes all activities necessary for implementing the replacement facilities, including engineering and cost analysis of the relocation procedure and, if radio facilities are used, identifying and obtaining, on the incumbents' behalf, new microwave frequencies and frequency coordination; and

(3) The emerging technology service entity builds the replacement system and tests it for comparability with the existing 2 GHz system.

(d) The 2 GHz microwave licensee is not required to relocate until the alternative facilities are available to it for a reasonable time to make adjustments, determine comparability, and ensure a seamless handoff.

(e) If within one year after the relocation to new facilities the 2 GHz microwave licensee demonstrates that the new facilities are not comparable to the former facilities, the emerging technology service entity must remedy the defects or pay to relocate the microwave licensee back to its former or equivalent 2 GHz frequencies.

(f) Public safety facilities subject to the four-year voluntary and one-year mandatory negotiation periods, are those that the majority of communications carried are used for police, fire, or emergency medical services operations involving safety of life and property. The facilities within this exception are those facilities currently licensed on a primary basis pursuant to the eligibility requirements of § 90.19, Police Radio Service; § 90.21, Fire Radio Service; § 90.27 Emergency Medical Radio Service; and Subpart C of Part 90, Special Emergency Radio Services. Licensees of other Part 101 facilities licensed on a primary basis under the eligibility requirements of Part 90, Subparts B and C, are permitted to request similar treatment upon demonstrating that the majority of the communications carried on those facilities are used for operations involving safety of life and property.

RADIO STATION AUTHORIZATION

WMJ716

STATION CALL SIGN: WMJ716 OWNER CODE: 4702 POINT TO POINT MICROWAVE SERVICE CLASS OF STATION: FIXED Date Printed: 06/21/1994

LICENSEE: KANSAS CITY SMSA LIMITED PARTNERSHIP
17330 PRESTON RD, SUITE 100A
DALLAS, TX 75252

RADIO SITES ASSOCIATED WITH THIS STATION

CALL/ID	NAME	STREET ADDRESS	CITY	ST	COUNTY	LAT.	LONG.	GRND ELEV	STRC HT	BLOG HT
WMJ716	[18TH STREET]	2530 S. 18TH STREET	KANSAS CITY	KS	WYANDOTTE	39 03 19	094 38 57	962	165	
WLS668	[PLAZA]	4600 MADISON	KANSAS CITY	MO	JACKSON	39 02 40	094 35 52	907	238	224
WMJ717	[CROSSLINE]	1021 N 7TH STREET	KANSAS CITY	KS	WYANDOTTE	39 06 59	094 37 34	864	231	215

PATHS ASSOCIATED WITH THIS STATION

PATH SEG No.	XMTR CALL SIGN	XMTR ANT CODE	XMTR ANT HT.	RCVR CALL SIGN	RCVR ANT CODE	RCVR ANT HT.	PATH DIST KM.	PATH AZIM DEG.	PATH BEING REPL.	FILE #	XMTR STATION NAME	XMTR STATE	RCVR STATION NAME	RCVR STATE
1	WMJ716	M20423	144	WMJ717	M20423	187	7.08	16.40		9210573	18TH STREET	KS	CROSSLINE	KS
2	WMJ716	M20423	50	WLS668	M20423	232	4.63	105.10		9210573	18TH STREET	KS	PLAZA	MO

ANTENNAS ASSOCIATED WITH THIS STATION

ANTENNA CODE	FREQ BAND	MANUFACTURER	FCC STANDARD	MODEL	ANT. POL - SIZE ARITY	DB GAIN	PATTERN NUMBER	PATTERN REFERENCE	REFERENCE DATE
M20423	2	MARK ANTENNA PRODS		PA-21B72G	6 PP	29.9			02/05/1987

TRANSMITTERS ASSOCIATED WITH THIS STATION

LINE NUMB	XMTR CODE	NO. UNITS	MANUFACTURER	MODEL NUMBER	POWER OUTPUT (WATTS)	TYPE ACCEPTED POWER	NEW EMISSION DESIGNATOR	OLD EMISS DESIG	STABIL- ITY	FREQUENCY BAND
1	27R101	2	C O SYSTEMS INC	HEL3ABDR2D-200	.200	.2	3M50D7W		.001	1700 -2300
HOT-STANDBY EQUIPMENT OF THE TYPE SHOWN ON LINE 1 IS ALSO USED										
2	27Z401	2	HARRIS CORPORATION	BCK9GKDV2-8T-4	.630	1.26	3M50D7W		.001	1850 -2180
HOT-STANDBY EQUIPMENT OF THE TYPE SHOWN ON LINE 2 IS ALSO USED										

ACTIVE FILE NUMBERS AT THIS STATION LISTED BELOW

File Number: 9305812 Filing Date: Aug 04, 1993 Single Application
CONDITION CODES 2GH
Application purpose CN CC IX MA RT
Public Notice Date: Aug 18, 1993
License being modified: 9210573
Granted: Jan 12, 1994
License Expiration Date: Feb 01, 2001

THIS AUTHORIZATION FOR ANY FACILITIES AUTHORIZED FOR FREQUENCY BETWEEN 1850 AND 2200 MHZ IS SUBJECT TO THE RULES, PROCEDURES, AND POLICIES IMPOSED BY THE COMMISSION IN ET DOCKET NO. 92-9, INCLUDING OPERATION OF A FACILITY AT 1850 TO 2200 MHZ ON A SECONDARY, NON-INTERFERENCE BASIS.

FREQUENCY MHZ	PATH Pol.	XMTR LINE	NUMB XMTRS	LINE LOSS	ACTION CODE	ASSOC. PATH	INITIAL AUTH	STAT	TYPE USE	FILE NUMBER	RECEIVING SITE
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2171.60 H 1 2 2 11.0 db 02/21/1992 LICENSED Telephone Carrier 9305812 CROSSLINE, KS WMJ717
Special condition applies to the above frequency.

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
RADIO STATION AUTHORIZATION

WMJ716

2165.20 V 2 1 2 2.0 db
Special condition applies to the above frequency.

02/21/1992 LICENSED

Telephone Carrier

9305812 PLAZA, MO WLS668

Date printed: 06/21/1994 Time Printed: 11:16:31



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

23115

News media information: 202/632-6050. Record of notices and comments: 202/632-6002.

May 16, 1992

TWO GIGAHERTZ FIXED MICROWAVE LICENSING POLICY

On January 16, 1992, the Commission adopted a Notice of Proposed Rule Making (Notice) in ET Docket 92-9 that proposes to allocate spectrum for emerging telecommunications technologies. The frequencies at issue currently are used for fixed microwave operation and include 1850-1990, 2110-2130/2160-2180, and 2136-2150/2180-2200 MHz. In the Notice the Commission stated that its goal is to ensure the availability of the existing vacant 2 GHz spectrum in these bands for the development of new services and to discourage possible speculative fixed service applications for this spectrum. Therefore, applications for new fixed microwave facilities submitted after the adoption date of the Notice will be granted on a secondary basis only, conditioned upon the outcome of the proceeding.

In the initial implementation of this policy, the conditional secondary status was applied to all major modifications to existing 2 GHz construction authorizations or licenses, in accordance with 47 C.F.R. §§ 1.962 and 21.27. We recognize, however, that most major modifications will not significantly affect the use and availability of existing 2 GHz spectrum. Therefore, the conditional secondary status will not be applied to modifications of facilities licensed prior to January 16, 1992, including:

- o Any change in antenna azimuth;
- o Any change in antenna beam width;
- o Any change in channel loading;
- o Any change in emission;
- o Any change in station location;
- o Any change in ownership or control;
- o Any increase in antenna height;
- o Any increase in authorized power;
- o Any reduction in authorized frequencies; and
- o Any addition of frequencies not in the 2 GHz band.

We also believe the conditional secondary status should not be applied in certain situations where additional links may be required to complete a communications network, or where new facilities and/or frequencies are operationally connected to a

Attachment C

system, licensed prior to January 16, 1992. In these instances, we will not apply the secondary conditional status when the applicant makes a valid showing of its need for the facilities.

Construction authorizations or licenses granted as a result of an application filed subsequent to the Notice and bearing the secondary-use special condition will, as appropriate, be modified to conform with this current policy and will be reissued on our own motion. In cases where the secondary condition remains applicable, applicants may, if they believe circumstances warrant, file the above described showing and request the condition be removed.

For further information concerning this Public Notice contact Mike Hayden, Chief, Microwave Branch, Private Radio Bureau at (717) 337-1421; Robert James, Chief, Domestic Radio Branch, Common Carrier Bureau at (202) 634-1706; or Fred Thomas at (202) 653-8117, Office of Engineering and Technology.

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION

RADIO STATION AUTHORIZATION

WMT396

STATION CALL SIGN: WMT396 OWNER CODE: 80008 POINT TO POINT MICROWAVE SERVICE CLASS OF STATION: FIXED Date Printed: 02/07/1995

LICENSEE: SOUTHWESTERN BELL MOBILE SYSTEMS, INC.
17330 PRESTON ROAD STE 100A
DALLAS, TX 75252

RADIO SITES ASSOCIATED WITH THIS STATION

CALL/ID	NAME	STREET ADDRESS	CITY	ST	COUNTY	LAT.	LONG.	GRND ELEV	STRC HT	BLDG HT
WMT396	[TRURO]	344 RTE 6	NORTH TRURO	MA	BARNSTABLE	42 01 18	070 04 32	104	150	
WLA210	[BREWSTER]	FREEMAN WAY	BREWSTER	MA	BARNSTABLE	41 44 13	070 00 40	105	300	

PATHS ASSOCIATED WITH THIS STATION

PATH SEG No.	XMTR CALL SIGN	XMTR ANT CODE	XMTR HT.	RCVR CALL SIGN	RCVR ANT CODE	RCVR HT.	PATH DIST KM.	PATH AZIM DEG.	PATH BEING REPL.	FILE #	XMTR STATION NAME	XMTR STATE	RCVR STATION NAME	RCVR STATE
1	WMT396	M20423	136	WLA210	M20295	165	32.07	170.38		9500510	TRURO	MA	BREWSTER	MA

ANTENNAS ASSOCIATED WITH THIS STATION

ANTENNA CODE	FREQ BAND	MANUFACTURER	FCC STANDARD	MODEL	ANT. SIZE	POL- ARITY	DB GAIN	PATTERN NUMBER	PATTERN REFERENCE	REFERENCE DATE
M20423	2	MARK ANTENNA PRODS		PA-21B72G	6	PP	29.9			02/05/1987
M20295	2	MARK ANTENNA PRODS		MHP-21A72	6	PP	30.3			09/05/1986

TRANSMITTERS ASSOCIATED WITH THIS STATION

LINE NUMB	XMTR CODE	NO. UNITS	MANUFACTURER	MODEL NUMBER	POWER OUTPUT (WATTS)	TYPE ACCEPTED POWER	NEW EMISSION DESIGNATOR	OLD EMISS DESIG	STABIL- ITY	FREQUENCY BAND
1	2YXK01	2	HARRIS FARINON	BCK9GKDM2-3A-3-3	.631	1.26	1M60W7W		.001	2100 -2200

HOT-STANDBY EQUIPMENT OF THE TYPE SHOWN ON LINE 1 IS ALSO USED

ACTIVE FILE NUMBERS AT THIS STATION LISTED BELOW

File Number: 9500510 Filing Date: Dec 23, 1994 Single Application
Application purpose NS
Public Notice Date: Jan 11, 1995
Granted: Feb 13, 1995
License Expiration Date: Feb 01, 2001
Construction Expiration Date: Aug 13, 1996

FREQUENCY MHz	PATH Pol.	XMTR LINE	NUMB XMTRS	LINE LOSS	ACTION CODE	ASSOC. PATH	INITIAL AUTH	STAT	TYPE USE	FILE NUMBER	RECEIVING SITE
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2118.40	H	1	1	2	4.0 db		02/13/1995	LICENSED	Telephone Carrier	9500510	BREWSTER, MA WLA210
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Date printed: 02/07/1995 Time Printed: 14:55:45

Appears to be primary